

**ATTACHMENT**

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

NEW LIFE AGENCY, INC., a California  
corporation

Plaintiff,

v.

ART RISK, FINANCIAL & INSURANCE  
SOLUTIONS, INC., a Delaware corporation,  
and UNIVERSAL FAMILY INSURANCE,  
LLC, a Massachusetts limited liability  
company, and JESSE MONTANO, an  
individual and DOES 1-5,

Defendants.

CASE NO. SACV11-01017-JVS (ANx)

[Assigned to the Honorable James V. Selna]

**REQUEST FOR INTERNATIONAL  
JUDICIAL ASSISTANCE (LETTER OF  
REQUEST) BY THE UNITED STATES  
DISTRICT COURT FOR THE  
CENTRAL DISTRICT OF CALIFORNIA**

1 **TO THE HIGH COURT OF ENGLAND:**

2 The United States District Court for the Central District of California presents  
3 its complements to the High Court of England and requests international judicial  
4 assistance to obtain the production of documents from RJ Kiln & Co., Ltd. ("Kiln") as set  
5 forth in Schedule A, and oral examination under oath from its person most knowledgeable  
6 ("Deponent") on the topics set forth in Schedule B.

7 This request is made pursuant to the Hague Convention of 18 March 1970 on the  
8 Taking of Evidence Abroad in Civil or Commercial Matters, as adopted and implemented at  
9 28 U.S.C. § 1781 and the Evidence (Proceedings in Other Jurisdictions) Act 1975 c.34. This  
10 Court, the United States District Court for the Central District of California, Southern  
11 Division, is a competent court of law and equity which properly has jurisdiction over this  
12 proceeding, and has the power to compel the attendance of witnesses and production of  
13 documents both within and outside its jurisdiction. Kiln has or is likely to have in its  
14 possession, custody or control the particular documents specified in Schedule A. The  
15 Deponent has or is likely to have knowledge on the topics set forth in Schedule B, and work  
16 or resides in or around London, United Kingdom.

17 The testimony of this witness and the production of these documents is intended for  
18 use at trial, and will be highly relevant to numerous claims and defenses in the case. The  
19 documents and testimony sought here will be relevant to competing claims by Plaintiff New  
20 Life Agency ("New Life") and Defendants Universal Family Insurance, LLC ("Universal")  
21 and ART Risk, Financial & Insurance Solutions, LLC ("ART Risk") for unfair competition  
22 and copyright infringement. The documents and testimony sought in this Letter of Request  
23 go to the heart of significant issues of fact and law that will influence the final determination  
24 (at trial and/or by motion) of the existence, non-existence, and/or extent of any liability under  
25 the Copyright Act, the unfair competition statutes, and other laws.

26 This request is made with the understanding that it will in no way require any person  
27 to commit any offense, or to undergo a broader form of inquiry than he or she would if the  
28 litigation were conducted in England. In the proper exercise of its authority, this Court has

determined that the documents described in Schedule A and the testimony of the Deponent on the topics set forth in Schedule B cannot be secured except by the intervention of the High Court of England.

### **Letter of Request**

The following Letter of Request follows the model form presented as the model Request for International Judicial Assistance pursuant to the Hague Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters.

#### **1. Sender**

The Honorable Arthur Nakazato  
United States Magistrate Judge  
United States District Court for the Central District of California, Southern Division  
411 West Fourth St.  
Santa Ana, CA 92701  
USA

#### **2. Central Authority of the Requested State**

Foreign and Commonwealth Office  
Clive House Petty France  
London SW1, England  
United Kingdom

#### **3. Person to whom the executed request is to be returned**

Benjamin Taylor, Esq.  
Miller Barondess, LLP  
1999 Avenue of the Stars, Suite 1000  
Los Angeles, CA 90067  
USA  
tel. (310) 552-4400  
fax. (310) 552-8400

#### **4. Specification of the date by which the requesting authority requires receipt of the response to the Letter of Request**

As soon as reasonably practicable consistent with the Court's calendar.

////

////

**5. IN CONFORMITY WITH ARTICLE 3 OF THE CONVENTION, THE  
UNDERSIGNED APPLICANT HAS THE HONOR TO SUBMIT THE  
FOLLOWING REQUEST:**

**a. Requesting judicial authority (article 3, a)**

United States District Court for the Central District of California  
Southern Division  
411 West Fourth St.  
Santa Ana, CA 92701  
USA

**b. To the competent authority of (article 3, a)**

England, United Kingdom

**c. Name of the case and any identifying number**

*New Life Agency, Inc. v. ART Risk, et. al.*, Case No. SACV11-01017-JVS (ANx), pending in  
the United States District Court for the Central District of California.

**6. Names and addresses of the parties and their representatives (including  
representatives in the requested State) (article 3, b)**

**a. Plaintiff**

New Life Agency, Inc., a California Corporation  
41-750 Rancho Las Palmas Drive, Suite F-1  
Rancho Mirage, CA 92270  
Telephone: 877-952-5433  
Facsimile: 877-952-5589

**Representative**

Hankin Patent Law, P.C.  
Marc E. Hankin, Esq.  
marc@hankinpatentlaw.com  
6404 Wilshire Boulevard, Suite 1020  
Los Angeles, California 90048  
Telephone: 323-801-0260  
Facsimile: 323- 944-0209

**b. Defendant and Counterclaimant**

Universal Family Insurance, LLC  
200 High St.  
Boston, MA 02110  
Telephone: 617-439-0100

**Representative**

Miller Barondess, LLP  
 Geoffrey A. Neri, Esq.  
 Benjamin Taylor, Esq.  
 gneri@millerbarondess.com  
 1999 Avenue of the Stars, Suite 1000  
 Los Angeles, CA 90067  
 Telephone: 310-552-4400  
 Facsimile: 310-552-8400

**c. Other Parties****Defendant and Counterclaimant**

ART Risk, Financial & Insurance Services, LLC  
 25020 W. Ave Stanford, Suite 140  
 Valencia, CA 91355  
 Telephone: 661-257-6242  
 Fax: 661-257-0110

**Representative**

David Morales, Esq.  
 dmorales@IPCounselOnline.com  
 The Morales Law Firm  
 560 S. Winchester Boulevard, Suite 500  
 San Jose, California 95128  
 Telephone: 888-836-0880  
 Facsimile: 866-406-6080

**Defendant**

Jesse Montano

**Representative**

David Morales, Esq.  
 dmorales@IPCounselOnline.com  
 The Morales Law Firm  
 560 S. Winchester Boulevard, Suite 500  
 San Jose, California 95128  
 Telephone: 888-836-0880  
 Facsimile: 866-406-6080

**7. a. Nature of the proceedings (divorce, paternity, breach of contract, product liability, etc.) (article 3, c)**

Civil lawsuit alleging infringement of copyrights and trademarks, interference with business relations, unfair competition, and related claims under California state and common law.

**b. Summary of complaint**

On July 8, 2011, New Life filed suit against ART Risk and Universal in the United States District Court for the Central District of California, alleging infringement of its copyrights, interference with business relations, unfair competition and related California state law claims. New Life alleges that Defendants unlawfully copied its insurance policies in setting up a competing insurance agency marketing to the surrogacy community. New Life added defendant Jesse Montano, its former employee, as a party to its First Amended Complaint in October 2011, alleging that he misappropriated its trade secrets.

**c. Summary of defenses and counterclaims**

**1. Defenses**

Defendants dispute New Life's allegations in their entirety. In addition to denying any wrongdoing, Defendants deny that the insurance policies claimed to have been infringed are copyrightable in the first instance.

**2. Counterclaims**

ART Risk and Universal counterclaimed against New Life for interference with business relations, trademark infringement, defamation, unfair competition, and related claims. New Life denies the allegations in the counterclaims.

**8. a. Evidence to be obtained or other judicial act to be performed (article 3, d)**

Oral testimony from Kiln's person most knowledgeable for use in the trial of the action of *New Life Agency, Inc. v. ART Risk, et al.*, Case No. SACV11-01017-JVS (ANx).

**b. Purpose of the evidence or judicial act sought**

Deponent is believed to have knowledge of the extent to which the insurance products it underwrites and which are sold by New Life in the United States market have been reviewed by counsel or by Kiln itself for compliance with applicable laws. This testimony relates to the unfair competition claims asserted by the parties in their respective Complaint and Counterclaims.

Likewise, Kiln is believed to have in its possession, custody or control documents reflecting any third party investigation and/or its investigation and any findings resulting

therefrom.

**9. Identity and address of any person to be examined (article 3, e)**

RJ Kiln & Co., Ltd.  
 Person Most Knowledgeable  
 106 Fenchurch Street  
 London EC3M 5NR  
 United Kingdom  
 Telephone: +44 (0)20 7488 1848

**10. Questions to be put to the persons to be examined or statement of the subject matter about which they are to be examined (article 3, f)**

See Schedule B, attached.

**11. Documents or other property to be inspected (article 3, g)**

See Schedule A, attached.

**12. Any requirement that the evidence be given on oath or affirmation and any special form to be used (article 3, h)**

The examination shall be taken under the Federal Rules of Civil Procedure of the United States of America, except to the extent such procedure is incompatible with the internal laws of the United Kingdom. The testimony shall be given under oath.

**13. Special methods or procedure to be followed (e.g., oral or in writing, verbatim, transcript or summary, cross-examination, etc.) (articles 3, i and 9)**

The particular documents requested in Schedule A are, or are likely to be, in the possession, custody or power of Kiln, are relevant to the claims and defenses of the proceedings before this Court, and may not be obtained except from Kiln directly. Furthermore, the Deponent works and/or resides in the United Kingdom's jurisdiction and, it is believed, has unique and personal knowledge on the topics set forth in Schedule B regarding any review of the New Life policies for compliance with state regulations. Therefore, it will further the interests of justice if:

(1) You cause, by your proper and usual process, the Deponent to be summoned to appear before you or some competent office authorized by you, on a date mutually agreed upon by the deponent and the parties or at a time and/or place to be determined by you, to



1 give testimony under oath by questions and answers upon oral deposition on the topics set  
 2 forth in Schedule B. Such deposition shall continue day to day until completion and  
 3 conducted in accordance with the Federal Rules of Civil Procedure or as permitted by you.  
 4 In the event that the Law of the United Kingdom does not permit the swearing of an oath by  
 5 this particular witness, the duly appointed officer shall make inquiry of such witness to  
 6 ensure that he/she understands the gravity of the procedure and affirms that his/her statement  
 7 will be true and correct in all respects.

8 (2) You permit Deponent to be examined under oath by counsel for Universal,  
 9 allowing full examination on the topics delineated in Schedule B to this Letter of Request.

10 (3) You order Kiln to produce documents at the office of \_\_\_\_\_ in accordance  
 11 with Schedule A to this Letter of Request and not later than fifteen (15) days prior to the date  
 12 of the deposition of Deponent.

13 (4) You order Kiln to produce, at or immediately after the oral examination, specific  
 14 documents relevant to the subject matter of this case, the existence of which becomes known  
 15 during the course of the examination and which are requested by counsel.

16 (5) You cause a verbatim transcript of the testimony of the witness to be taken and  
 17 reduced to writing. The deposition shall also be videotaped.

18 (6) You order that the oral and documentary evidence produced pursuant to  
 19 your enforcement of this Letter of Request shall not be used by anyone in any manner or  
 20 proceeding other than in this matter, *New Life Agency, Inc. v. ART Risk*, et al., case No.  
 21 SACV11-01017-JVS (ANx), pending in the United States District Court for the Central  
 22 District of California.

23 ////

24 ////

**14. Request for notification of the time and place for the execution of the Request and identity and address of any person to be notified (article 7)**

Please notify the following counsel regarding the time and place for the execution of the Request:

Geoffrey A. Neri, Esq.  
Benjamin Taylor, Esq.  
gneri@millerbarondess.com  
Miller Barondess, LLP  
1999 Avenue of the Stars, Suite 1000  
Los Angeles, CA 90067  
USA  
tel. (310) 552-4400  
fax. (310) 552-8400

**15. Request for attendance or participation of judicial personnel of the requesting authority at the execution of the Letter of Request (article 8)**

No attendance of judicial personnel is requested. Pursuant to the Federal Rules of Civil Procedure, depositions may be taken and documents may be requested and produced without involvement of judicial personnel.

**16. Specification of privilege or duty to refuse to give evidence under the law of the State of origin (article 11, b)**

All claims of privilege or duty to refuse to give evidence shall be governed by Section 3 of the Evidence (Proceedings in Other Jurisdictions) Act 1975.

**17. Fees and Costs**

The fees and costs incurred which are reimbursable under the second paragraph of article 14 or under article 26 of the Convention will be borne by Defendant Universal Family Insurance, LLC, through its counsel of record: Geoffrey A. Neri, Esq. and Benjamin Taylor, Esq., Miller Barondess, LLP, 1999 Avenue of the Stars, Suite 1000, Los Angeles, California 90067. Universal's payment of such fees and costs (if any) is without prejudice to its making a subsequent request to be reimbursed for these costs by other parties in this proceeding.

////

**Conclusion**

In the spirit of comity and reciprocity, this Court hereby requests international judicial assistance in the form of this Letter of Request to obtain the production of documents by Kiln as set forth in Schedule A, and the oral examination, under oath, of its Person Most Knowledgeable on the topics set forth in Schedule B. This Court expresses its sincere willingness to provide similar assistance to the High Court of England if future circumstances should require.

DATED:

By: \_\_\_\_\_

Hon. Arthur Nakazato  
United States Magistrate Judge

**TERRY NAFISI, Clerk of Court**

By

**Deputy Clerk****Seal**

**Schedule A: Requests for Documents**

It is requested that the High Court of England compel the production of the following documents:

**REQUEST FOR PRODUCTION NO. 1:**

The documents constituting or relating to any investigation conducted by RJ Kiln & Co., Ltd. relating to the insurance products sold by New Life Agency, Inc.

**REQUEST FOR PRODUCTION NO. 2:**

The documents constituting or relating to any communications, including letters, emails, notes, memoranda, and the like, between R.J. Kiln & Co., Ltd. and any other person or entity relating to any investigation conducted of the insurance products sold by New Life Agency, Inc.

**REQUEST FOR PRODUCTION NO. 3:**

The documents constituting communications between R.J. Kiln & Co., Ltd and Lloyd's of London, including letters, emails, notes, memoranda, and the like, relating to the insurance products sold by New Life Agency, Inc.

**REQUEST FOR PRODUCTION NO. 4:**

The documents constituting communications between R.J. Kiln & Co., Ltd., and New Life Agency, Inc. including letters, emails, notes, memoranda, and the like, relating to the insurance products sold by New Life Agency, Inc.

**Schedule B: Sworn Deposition of Deponent****Subject Matters Upon Which RJ Kiln & Co., Ltd's Person(s) Most Knowledgeable  
is to be Examined**

It is requested that the High Court of England compel the testimony of RJ Kiln & Co., Ltd.'s Person(s) Most Knowledgeable, under oath, on the following subjects:

1. Any investigation conducted by R.J. Kiln & Co., Ltd. related to the legality of any insurance product sold in the United States by New Life Agency, Inc.
2. The legality of the insurance products sold to the surrogacy market in the United States by New Life Agency, Inc.
3. R.J. Kiln & Co., Ltd.'s procedures for assessing the propriety and legality of its insurance products for review for possible sale in the United States.
4. Research conducted by the R.J. Kiln & Co., Ltd. into the propriety and legality of any insurance product to be sold in the United States by New Life Agency, Inc.
5. Communications between R.J. Kiln & Co., Ltd. and any person or entity related to any investigation conducted by the Corporation of Lloyd's of London of the legality of any insurance product sold in the United States by New Life Agency, Inc.